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COMMISSION ON HUMAN RIGHTS
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Agenda item 12

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Austria, Belgium*, Canada, Denmark*, Finland, France, Germany, Greece*, Ireland*, Italy, Luxembourg*, Netherlands, Norway*, Spain* and the United Kingdom of Great Britain and Northern Ireland: draft resolution

Situation of human rights in Myanmar

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable human rights instruments,

Aware that, in accordance with the Charter, the United Nations promotes and encourages respect for human rights and fundamental freedoms for all and that the Universal Declaration of Human Rights states that the will of the people shall be the basis of the authority of government,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Noting with particular concern in this regard that the electoral process initiated in Myanmar by the general elections of 27 May 1990 has not yet reached its conclusion and that the Government still has not implemented its commitments to take all necessary steps towards democracy in the light of those elections,

Deploring that many political leaders, in particular elected representatives, remain deprived of their liberty and that Daw Aung San Suu Kyi, a Nobel Peace Prize laureate, is still under house arrest and, according to some sources, will not in any event be released before the end of 1994,

Noting the measures taken by the Government of Myanmar, including its accession to the Geneva Conventions of 12 August 1949, for the protection of war victims and the release of a number of political prisoners, at the urging of the international community,

Gravely concerned at the violations of human rights in Myanmar which remain extremely serious, in particular the practice of torture, summary and arbitrary executions, forced labour, including forced portering for the military, abuse of women, politically motivated arrests and detention, forced displacement of the population, the existence of important restrictions on the exercise of fundamental freedoms, including the freedom of expression and association, and the imposition of oppressive measures directed, in particular, at minority groups,

Noting further that many violations directly affect women, in particular women belonging to minorities, who have suffered ill-treatment, especially at the hands of the military, as stated by the Special Rapporteur,

Noting that this situation has resulted in flows of refugees towards neighbouring countries,

Deeply concerned at the continuous problems created in neighbouring countries by this exodus of refugees, including some 200,000 refugees still living in Bangladesh,

Welcoming, nevertheless, the signing on 5 November 1993 by the Government of Myanmar and the Office of the United Nations High Commissioner for Refugees, of the Memorandum of Understanding on the voluntary repatriation of refugees from Bangladesh,

Having examined the reports of the Working Group on Arbitrary Detention (E/CN.4/1994/27), the Special Rapporteur on the question of torture (E/CN.4/1994/31), and the Special Rapporteur on the question of religious intolerance (E/CN.4/1994/71),

Recalling its resolution 1992/58 of 3 March 1992, in which it decided to nominate a special rapporteur to establish direct contacts with the Government and people of Myanmar, including political leaders deprived of their liberty, their families and their lawyers, with a view to examining the situation of human rights in Myanmar and following any progress made towards the transfer of power to a civilian Government and the drafting of a new constitution, the lifting of restrictions on personal freedoms and the restoration of human rights in Myanmar,

Taking note of General Assembly resolution 48/150 of 20 December 1993,

Noting that the Special Rapporteur has visited Myanmar at the invitation of the Government of Myanmar,

Deploring, however, that, in spite of the provisions of resolution 1993/73 requesting the Myanmar authorities to extend their full and unreserved cooperation to the Special Rapporteur, he has been denied access to Daw Aung San Suu Kyi,

Reaffirming that Daw Aung San Suu Kyi, a Nobel Peace Prize laureate, who has recently been authorized to receive a number of visits, must be released immediately and unconditionally,

Taking note of the cease-fire being observed and the negotiations under way between the Government of Myanmar and several minority groups,

1. Expresses its thanks to the Special Rapporteur for his report (E/CN.4/1994/57) and the conclusions and recommendations contained therein;

2. Deplores the continued seriousness of the situation of human rights in Myanmar and, in particular, the fact that a number of political leaders, including Daw Aung San Suu Kyi and other leaders of the National League for Democracy, remain deprived of their liberty;

3. Again urges the Government of Myanmar to take, in conformity with the assurances given at various times, all necessary measures to establish a democratic State in full accordance with the will of the people as expressed in the democratic elections held in 1990;

4. Notes with concern that most of the representatives democratically elected in 1990 have been excluded from participating in the meetings of the National Convention, created to prepare the basic elements for the drafting of a new constitution, that severe restrictions have been imposed on delegates, including members of the National League for Democracy, who are unable to meet or distribute their literature, and that one of the objectives of the Convention is to maintain the participation of the armed forces (Tatmadaw) in a leading role in the future political life of the State;

5. Notes with concern the observation of the Special Rapporteur with regard to the National Convention that no evident progress has been made towards turning power over to a freely elected Government;

6. Strongly urges the Government of Myanmar to take all appropriate measures to allow all citizens to participate freely in the political process, in accordance with the principles of the Universal Declaration of Human Rights, and to accelerate the process of transition to democracy, in particular through the transfer of power to the democratically-elected representatives, lifting restraining orders placed on a number of political leaders, releasing those who are detained and ensuring that all political parties can function freely;

7. Strongly urges the Government of Myanmar to restore full respect for human rights and fundamental freedoms, in particular the freedom of expression and opinion and the right of association and of assembly, to restore protection of persons belonging to minority groups, notably against discrimination, especially in the framework of the citizenship laws, and to put an end to violations of the right to life and integrity of the human being, to the practice of torture, abuse of women and forced labour, to enforced displacements of the population and to enforced disappearances and summary executions;

8. Reminds the Government of Myanmar of its obligation to put an end to the impunity of perpetrators of violations of human rights, including members of the military, and its responsibility to investigate alleged cases of human rights violations committed by its agents on its territory, to bring them to justice, prosecute them and punish those found guilty, in all circumstances;

9. Regrets the recent harsh sentences meted out to a number of dissidents, including persons voicing dissent in regard to the procedures of the National Convention;

10. Regrets also that, while a certain number of political prisoners have been released, many political leaders are still deprived of their freedom and their fundamental rights;

11. Strongly urges the Government of Myanmar to release immediately and unconditionally the Nobel Peace Prize laureate, Daw Aung San Suu Kyi, detained without trial for the last five years, as well as other detained political leaders and all political prisoners, to ensure their physical integrity and to permit them to participate in the process of national reconciliation;

12. Calls upon the Government of Myanmar to consider becoming a party to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

13. Appeals to the Government of Myanmar to fulfil its obligations as a State party to the Forced Labour Convention, 1930 (No. 29) and the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) of the International Labour Organisation;

14. Encourages the Government of Myanmar to continue to lift the emergency measures;

15. Requests the Government of Myanmar to ensure that all persons, without discrimination, are afforded the minimum guarantees for a fair trial, according to due process of law and in conformity with applicable international standards, that laws are given due publicity and that the principle of non-retroactivity of laws is respected;

16. Requests the Government of Myanmar to create the necessary conditions to facilitate the early repatriation of Myanmar refugees in neighbouring countries and their full reintegration, in conditions of safety and dignity, and to implement fully the Memorandum of Understanding concluded with the Office of the United Nations High Commissioner for Refugees on 5 November 1993, concerning refugees in Bangladesh;

17. Invites the Government of Myanmar to fully respect its obligations under the Geneva Conventions of 12 August 1949, in particular their common article 3, and to avail itself of such services as may be offered by impartial humanitarian bodies;

18. Stresses that it is important for the Government of Myanmar to give particular attention to prison conditions in the country's jails and to allow international humanitarian organizations to communicate freely and confidentially with prisoners;

19. Welcomes the first measures taken by the Government of Myanmar to provide for the training of military personnel in international humanitarian law and requests it to intensify its efforts in that regard and to extend them to police and prison personnel;

20. Decides to extend for one year the mandate of the Special Rapporteur to establish or continue direct contacts with the Government and people of Myanmar, including political leaders deprived of their liberty, their families and their lawyers, and requests him to report to the General Assembly at its forty-ninth session and to the Commission on Human Rights at its fifty-first session;

21. Urges the Government of Myanmar to cooperate fully and unreservedly with the Commission and the Special Rapporteur and, to that end, to ensure that the Special Rapporteur has effectively free access to any person in Myanmar whom he may deem it appropriate to meet in the performance of his mandate, including Daw Aung San Suu Kyi;

22. Requests the Secretary-General to provide the Special Rapporteur with all necessary assistance;

23. Decides to keep the matter under review at its fifty-first session under the agenda item "Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories".

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